

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA	:	
	:	
v.	:	1:13CR435-1
	:	
BRIAN DAVID HILL	:	

MOTION TO CONTINUE TRIAL

The Defendant, by and through counsel, hereby moves to continue trial in this matter until the July 2014 Criminal Term. In support thereof, counsel states as follows:

1. The Defendant is charged with one count of possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B).

2. The Defendant was arraigned on January 2, 2014, pled not guilty and the case was assigned to the February 2014 Criminal Term. On motion of undersigned counsel, the Court ordered an examination under 18 U.S.C. §§ 4241(b) and 4242(a). The report of that examination was filed with the Court on May 8, 2014. The Defendant actually returned to the Middle District of North Carolina on May 14, 2014. At a status conference earlier today, the Court denied the Defendant's *pro se* motions to suppress, denied the Defendant's request for new counsel, and set the matter for trial on Monday, June 9, 2014.

3. Undersigned counsel and his wife are flying to Boston, Massachusetts, tomorrow morning, June 5, 2014, to attend their son's graduation from the

Massachusetts Institute of Technology, and are not scheduled to return until the evening of Sunday, June 8, 2014. Accordingly, undersigned counsel will be unable to consult further with the Defendant, explain and discuss today's rulings, and otherwise determine whether a trial is even necessary,¹ before trial is now scheduled to begin.

4. Undersigned counsel believes that one additional week would be sufficient to complete his consultation with the Defendant, and determine whether a trial is necessary. However, undersigned counsel is already scheduled for trial in *United States v. Christine Evangeline Barela*, which is expected to take a full week, beginning Monday, June 16, 2014, and Government Counsel, Assistant United States Attorney Anand P. Ramaswamy, is scheduled to be on leave for approximately two weeks beginning Monday, June 23, 2014.

5. Because of the late hour, undersigned counsel has not been able to contact Mr. Ramaswamy to determine the Government's position regarding the requested continuance.

6. The Defendant submits that failure to grant the requested continuance would deny counsel for the Defendant the reasonable time necessary for effective preparation, taking into account both the exercise of due diligence and the Defendant's condition, as detailed in the report filed with the Court on May 8, 2014, that the ends of justice are best served by granting this continuance, and that they

¹ Counsel for both parties continue to believe an appropriate resolution of the case is possible, and late today Government Counsel emailed undersigned counsel a summary of a new, and very reasonable, plea offer.

outweigh the interest of the public and the Defendant in a speedy trial. Accordingly, the Defendant agrees that any delay occasioned by the granting of this continuance should be excluded in computing the time within which the trial of this matter must commence. *See* Title 18, United States Code, Sections 3161(h)(7)(A), (B)(iv).

WHEREFORE, the Defendant hereby moves for an order continuing the trial of this matter to the July 2014 Criminal Term.

Respectfully submitted this the 4th day of June, 2014.

LOUIS C. ALLEN III
Federal Public Defender

/s/ Eric D. Placke
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CERTIFICATE OF SERVICE

I hereby certify that on June 4, 2014, I electronically filed the foregoing Motion to Continue Trial with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Mr. Anand P. Ramaswamy, Assistant United States Attorney, 101 South Edgeworth Street, Fourth Floor, Greensboro, NC 27401.

Respectfully submitted,

/s/ Eric D. Placke
ERIC D. PLACKE
First Assistant Federal Public Defender

